

27 WHEREAS, Florida has adopted the common law of England as
 28 it existed on July 4, 1776, including the doctrine of sovereign
 29 immunity, and

30 WHEREAS, All states provide some waiver to its sovereign
 31 immunity, including Florida, and

32 WHEREAS, At least fourteen states have no limits on damages
 33 for authorized lawsuits against local governments, and of the
 34 states that do have such limits, Florida's are lower than at
 35 least half of those states, and

36 WHEREAS, It appears that no other state has a claim bill
 37 process at the state level for excess tort settlements and
 38 judgments against local governments, and

39 WHEREAS, Decisions affecting the spending of local funds
 40 are best made by the legislative bodies of local governments and
 41 decisions affecting the spending of state funds are best made by
 42 the Florida Legislature, and

43 WHEREAS, Parties injured by negligent acts of officers,
 44 employees, and agents of government entities are entitled to
 45 fair compensation for their injuries, and

46 WHEREAS, Such parties not fairly compensated often must
 47 rely on state and federal funded health care programs for their
 48 medical care, and

49 WHEREAS, It is the intention of the Florida Legislature to
 50 have tort claims against local governments resolved by the
 51 responsible local government to the greatest extent practicable;
 52 and

53 WHEREAS, The Legislature recognizes the financial
 54 constraints facing state and local governments and that some

55 sensible restrictions must be placed on lawsuits against such
 56 governments, NOW, THEREFORE,

57

58 Be It Enacted by the Legislature of the State of Florida:

59

60 Section 1. Section 11.02, Florida Statutes, is amended to
 61 read:

62 11.02 Notice of special or local legislation or claim
 63 bills ~~certain relief acts.~~—The notice required to obtain special
 64 or local legislation or any claim bill ~~relief act~~ specified in
 65 s. 11.065(2) ~~s. 11.065~~ shall be by publishing the identical
 66 notice in each county involved in some newspaper as defined in
 67 chapter 50 published in or circulated throughout the county or
 68 counties where the matter or thing to be affected by such
 69 legislation shall be situated one time at least 30 days before
 70 introduction of the proposed law into the Legislature or, there
 71 being no newspaper circulated throughout or published in the
 72 county, by posting for at least 30 days at not less than three
 73 public places in the county or each of the counties, one of
 74 which places shall be at the courthouse in the county or
 75 counties where the matter or thing to be affected by such
 76 legislation shall be situated. Notice of special or local
 77 legislation shall state the substance of the contemplated law,
 78 as required by s. 10, Art. III of the State Constitution. Notice
 79 of any claim bill ~~relief act~~ specified in s. 11.065(2) ~~s. 11.065~~
 80 shall state the name of the claimant, the nature of the injury
 81 or loss for which the claim is made, and the amount of the claim
 82 being sought against the affected political subdivision

83 ~~municipality's revenue-sharing trust fund.~~

84 Section 2. Subsection (10) is added to section 11.045,
85 Florida Statutes, to read:

86 11.045 Lobbying before the Legislature; registration and
87 reporting; exemptions; penalties.—

88 (10) (a) Each lobbyist lobbying a claim bill must disclose
89 his or her interest and participation to the President of the
90 Senate and the Speaker of the House of Representatives prior to
91 lobbying such claim bill. Such disclosure must be in writing and
92 state the name of the principal retaining the lobbyist.

93 (b) A lobbyist may not represent more than one client on a
94 claim bill without written permission from each client. A copy
95 of the written permission from the clients must be included in
96 the disclosure required under paragraph (a).

97 (c) A lobbyist may not lobby a claim bill for a client
98 that has an adverse position to a previous client of the
99 lobbyist without written permission from each client. A copy of
100 the written permission from the clients must be included in the
101 disclosure required under paragraph (a).

102 (d) Violations of this subsection shall be investigated
103 and punished pursuant to subsection (7).

104 Section 3. Subsection (2) of section 11.047, Florida
105 Statutes, is amended to read:

106 11.047 Contingency fees; prohibitions; penalties.—

107 (2) No person may, in whole or in part, pay, give, or
108 receive, or agree to pay, give, or receive, a contingency fee.
109 However, this subsection does not apply to claim ~~claims~~ bills.

110 Section 4. Section 11.065, Florida Statutes, is amended to

111 read:

112 11.065 Claim bills ~~Claims against state; limitations;~~
 113 notice.-

114 (1) ~~No claims against the state shall be presented to the~~
 115 ~~Legislature more than 4 years after the cause for relief~~
 116 ~~accrued. Any claim presented after this time of limitation shall~~
 117 ~~be void and unenforceable.~~

118 ~~(2)~~ All claim bills ~~passed by relief acts~~ of the
 119 Legislature shall be for payment in full. No further claims for
 120 relief shall be submitted to the Legislature in the future.

121 ~~(2)(3)~~ Notice shall be given as provided in s. 11.02 prior
 122 to the introduction of any claim bill ~~relief act~~ which provides
 123 for the payment of the claim from funds of a political
 124 subdivision ~~scheduled for distribution to a municipality from~~
 125 ~~the revenue sharing trust fund for municipalities.~~

126 Section 5. Paragraph (b) of subsection (11) of section
 127 766.1115, Florida Statutes, is amended to read:

128 766.1115 Health care providers; creation of agency
 129 relationship with governmental contractors.-

130 (11) APPLICABILITY.-This section applies to incidents
 131 occurring on or after April 17, 1992. This section does not:

132 (b) Apply to any affiliation agreement or other contract
 133 that is subject to s. 768.28(10)(e) ~~s. 768.28(10)(f)~~.

134 Section 6. Section 768.28, Florida Statutes, is amended to
 135 read:

136 768.28 Florida Fair Claims Act; waiver of sovereign
 137 immunity in tort actions; recovery limits; limitation on
 138 attorney fees; statute of limitations; exclusions;

139 indemnification; risk management programs.—

140 (1) (a) This section may be referred to as the Florida Fair
 141 Claims Act.

142 (b) In accordance with s. 13, Art. X of the State
 143 Constitution, the state, for itself and for its agencies and ~~or~~
 144 political subdivisions, hereby waives sovereign immunity for
 145 liability for torts, but only to the extent specified in this
 146 section ~~act~~. Actions at law against the state or any of its
 147 agencies or political subdivisions to recover damages in tort
 148 for money damages against the state or its agencies or political
 149 subdivisions for injury or loss of property, personal injury, or
 150 death caused by the negligent or wrongful act or omission of any
 151 employee of the agency or political subdivision while acting
 152 within the scope of the employee's office or employment under
 153 circumstances in which the state or such agency or political
 154 subdivision, if a private person, would be liable to the
 155 claimant, in accordance with the general laws of this state, may
 156 be prosecuted subject to the limitations specified in this
 157 section ~~act~~.

158 (c) Any such action authorized by this section may be
 159 brought in the county where the property in litigation is
 160 located or, if the affected agency or political subdivision has
 161 an office in such county for the transaction of its customary
 162 business, where the cause of action accrued. However, any such
 163 action against a state university board of trustees shall be
 164 brought in the county in which that university's main campus is
 165 located or in the county in which the cause of action accrued if
 166 the university maintains therein a substantial presence for the

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167 transaction of its customary business.

168 (d) Any such action authorized by this section shall be
169 tried by a jury as to liability, unless waived by all parties.
170 Upon a finding of liability by the jury, a separate bench trial
171 shall be held by the judge as to the determination of damages.

172 (e) Any award of past damages shall be paid to the
173 claimant within thirty days of final judgment or exhaustion of
174 appeals, whichever occurs later.

175 (f)1. Except as provided in paragraph (g), any award of
176 future medical damages shall be paid into a special needs trust
177 for that purpose.

178 2. All other awards for future damages, such as lost wages
179 or pain and suffering, shall also be paid into a trust and
180 distributed to the claimant from the trust annually. Such
181 distribution of other awards for future damages from the trust
182 shall be made pursuant to the final order of the judge. The
183 judge's order shall order the distribution based on the
184 calculations made in awarding such damages and as they come due.

185 3. Trusts created pursuant to sub-paragraphs 1. and 2. may
186 be funded over time by the state agency or political subdivision
187 through the purchase of an annuity as approved by the judge.

188 4. Other than future lost wages, any unspent funds
189 remaining in trust upon the death of the claimant paid by the
190 state agency or political subdivision pursuant to the underlying
191 judgment shall revert back to that state agency or political
192 subdivision.

193 (g) Any award of future damages may be made in periodic
194 payments upon request of the state agency or political

195 subdivision and approval of the judge that the claimant will not
 196 suffer a substantial hardship as a result of the periodic
 197 payments. Periodic payments will be due as ordered by the judge
 198 and as the need is anticipated for the claimant.

199 (2) (a) As used in this section ~~act~~, "state agency ~~agencies~~
 200 ~~or subdivisions~~" includes ~~include~~ the executive departments, the
 201 Legislature, the judicial branch (including public defenders),
 202 and the independent establishments of the state, including state
 203 university boards of trustees, ~~counties and municipalities,~~ and
 204 corporations primarily acting as instrumentalities or agencies
 205 of the state, ~~counties, or municipalities, including the Florida~~
 206 ~~Space Authority.~~

207 (b) As used in this section, "political subdivision"
 208 includes counties, municipalities, special tax school districts,
 209 special road and bridge districts, hospital districts, all other
 210 districts in this state, and corporations primarily acting as
 211 instrumentalities or agencies of political subdivisions,
 212 including Space Florida.

213 (3) Except for a political subdivision ~~municipality and~~
 214 ~~the Florida Space Authority~~, the affected agency ~~or subdivision~~
 215 may, at its discretion, request the assistance of the Department
 216 of Financial Services in the consideration, adjustment, and
 217 settlement of any claim under this section ~~act~~.

218 (4) Subject to the provisions of this section, any state
 219 agency or political subdivision shall have the right to appeal
 220 any award, ~~compromise, settlement,~~ or determination to the court
 221 of appropriate jurisdiction.

222 (5) (a) The state and its agencies and political

223 subdivisions shall be liable for tort claims in the same manner
 224 and to the same extent as a private individual under like
 225 circumstances, but liability shall not include punitive damages
 226 or interest for the period before judgment.

227 (b)1. A political subdivision that purchases insurance or
 228 self-insures to cover liabilities under this section in an
 229 amount equal to or greater than three times the limits of
 230 liability set forth in paragraph (d) is afforded the protections
 231 of this paragraph for such liabilities that occur while such
 232 insurance or self-insurance is in effect.

233 2.a. Insurance purchased pursuant to sub-paragraph 1. must
 234 pay for covered liabilities up to the policy amounts and not be
 235 contingent upon some further act of the Legislature.

236 b. Self-insurance maintained pursuant to sub-paragraph 1.
 237 must require that, within 45 days after receipt of the notice of
 238 loss from the claimant, the lesser of the amount the claimant is
 239 willing to accept and the policy limits is deposited into a
 240 contingent liability account and held there pending the
 241 resolution of the related litigation.

242 3. Notwithstanding other provisions of this section, a
 243 political subdivision that purchases insurance or self-insures
 244 in compliance with this paragraph is only liable for its
 245 deductible under the policy and is not liable for any judgments
 246 in excess of the limits of such policy. A party injured by a
 247 tort covered by such a policy may not seek payment from the
 248 insured beyond the insurance coverage for such tort and no claim
 249 for relief related to such tort shall be submitted to the
 250 Legislature in the future.

251 4. A party injured as a result of a tort covered by this
252 paragraph may pursue a judgment in excess of the policy limits
253 if the insurer is found to have acted in bad faith in meeting
254 its obligations under its policy with the political subdivision.
255 If within 45 days after receipt of the notice of loss from the
256 claimant the insurer offers to pay the claimant the lesser of
257 the amount the claimant is willing to accept and the limits of
258 liability coverage applicable to the claimant's insurance claim
259 in exchange for a full release of the insured from any liability
260 arising from the incident and the notice of insurance claim,
261 then the insurer does not violate the duty to attempt in good
262 faith to settle the claim, and is not liable for bad-faith
263 failure to settle under this section or under the common law.

264 (c) Except for political subdivisions, neither the state
265 nor its agencies ~~or subdivisions~~ shall be liable to pay a claim
266 or a judgment by any one person which exceeds the sum of
267 \$200,000 or any claim or judgment, or portions thereof, which,
268 when totaled with all other claims or judgments paid by the
269 state or its agencies ~~or subdivisions~~ arising out of the same
270 incident or occurrence, exceeds the sum of \$300,000. However, a
271 judgment or judgments may be claimed and rendered in excess of
272 these amounts and may be settled and paid pursuant to this
273 section ~~act~~ up to \$200,000 or \$300,000, as the case may be; and
274 that portion of the judgment that exceeds these amounts may be
275 reported to the Legislature, but may be paid in part or in whole
276 only by further act of the Legislature. Notwithstanding the
277 limited waiver of sovereign immunity provided herein, the state
278 or an agency ~~or subdivision thereof~~ may agree, within the limits

279 of insurance coverage provided, to settle a claim made or a
 280 judgment rendered against it without further action by the
 281 Legislature, but the state or agency ~~or subdivision thereof~~
 282 shall not be deemed to have waived any defense of sovereign
 283 immunity or to have increased the limits of its liability as a
 284 result of its obtaining insurance coverage for tortious acts in
 285 excess of the \$200,000 or \$300,000 waiver provided in this
 286 paragraph above.

287 (d) Except as provided in paragraph (b), political
 288 subdivisions shall not be liable to pay a claim or a judgment by
 289 any one person which exceeds the sum of \$1,000,000 or any claim
 290 or judgment, or portions thereof, which, when totaled with all
 291 other claims or judgments paid by the political subdivision
 292 arising out of the same incident or occurrence, exceeds the sum
 293 of \$1,500,000. However, a judgment or judgments may be claimed
 294 and rendered in excess of these amounts and may be settled and
 295 paid pursuant to this section up to \$1,000,000 or \$1,500,000, as
 296 the case may be; and that portion of the judgment that exceeds
 297 these amounts may be reported to the Legislature, but may be
 298 paid in part or in whole only by further act of the Legislature.
 299 Notwithstanding the limited waiver of sovereign immunity
 300 provided herein, a political subdivision may agree to settle a
 301 claim made or a judgment rendered against it without further
 302 action by the Legislature, but the political subdivision shall
 303 not be deemed to have waived any defense of sovereign immunity
 304 or to have increased the limits of its liability as a result of
 305 obtaining insurance coverage for tortious acts in excess of the
 306 \$1,000,000 or \$1,500,000 waiver provided in this paragraph.

307 (e) The limitations of liability set forth in this
 308 subsection shall apply to the state and its agencies and
 309 political subdivisions whether or not the state or its agencies
 310 or political subdivisions possessed sovereign immunity before
 311 July 1, 1974.

312 (f) The limitations of liability set forth in paragraph
 313 (d) shall be adjusted on July 1 of each year based on any
 314 increase or decrease from the most recent year available as set
 315 in the federal Bureau of Labor Statistics Consumer Price Index
 316 for the Southeastern United States.

317 (6) (a) An action may not be instituted on a claim against
 318 the state or one of its agencies or political subdivisions
 319 unless the claimant presents the claim in writing to the
 320 appropriate agency, and also, except as to any claim against a
 321 political subdivision ~~municipality or the Florida Space~~
 322 ~~Authority~~, presents such claim in writing to the Department of
 323 Financial Services, within 3 years after such claim accrues and
 324 the Department of Financial Services or the appropriate agency
 325 denies the claim in writing; except that, if:

326 1. Such claim is for contribution pursuant to s. 768.31,
 327 it must be so presented within 6 months after the judgment
 328 against the tortfeasor seeking contribution has become final by
 329 lapse of time for appeal or after appellate review or, if there
 330 is no such judgment, within 6 months after the tortfeasor
 331 seeking contribution has either discharged the common liability
 332 by payment or agreed, while the action is pending against her or
 333 him, to discharge the common liability; or

334 2. Such action is for wrongful death, the claimant must

335 present the claim in writing to the appropriate agency or
 336 political subdivision and the Department of Financial Services,
 337 if applicable, within 2 years after the claim accrues.

338 (b) For purposes of this section, the requirements of
 339 notice to the appropriate agency or political subdivision and
 340 the Department of Financial Services, if applicable, and denial
 341 of the claim pursuant to paragraph (a) are conditions precedent
 342 to maintaining an action but shall not be deemed to be elements
 343 of the cause of action and shall not affect the date on which
 344 the cause of action accrues.

345 (c) The claimant shall also provide to the agency or
 346 political subdivision and the Department of Financial Services,
 347 if applicable, the claimant's date and place of birth and social
 348 security number if the claimant is an individual, or a federal
 349 identification number if the claimant is not an individual. The
 350 claimant shall also state the case style, tribunal, the nature
 351 and amount of all adjudicated penalties, fines, fees, victim
 352 restitution fund, and other judgments in excess of \$200, whether
 353 imposed by a civil, criminal, or administrative tribunal, owed
 354 by the claimant to the state, its agency, officer or political
 355 subdivision. If there exists no prior adjudicated unpaid claim
 356 in excess of \$200, the claimant shall so state.

357 (d) For purposes of this section, complete, accurate, and
 358 timely compliance with the requirements of paragraph (c) shall
 359 occur prior to settlement payment, close of discovery or
 360 commencement of trial, whichever is sooner; provided the ability
 361 to plead setoff is not precluded by the delay. This setoff shall
 362 apply only against that part of the settlement or judgment

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363 payable to the claimant, minus claimant's reasonable attorney's
364 fees and costs. Incomplete or inaccurate disclosure of unpaid
365 adjudicated claims due the state, its agency, officer, or
366 political subdivision, may be excused by the court upon a
367 showing by the preponderance of the evidence of the claimant's
368 lack of knowledge of an adjudicated claim and reasonable inquiry
369 by, or on behalf of, the claimant to obtain the information from
370 public records. Unless the appropriate agency or political
371 subdivision had actual notice of the information required to be
372 disclosed by paragraph (c) in time to assert a setoff, an
373 unexcused failure to disclose shall, upon hearing and order of
374 court, cause the claimant to be liable for double the original
375 undisclosed judgment and, upon further motion, the court shall
376 enter judgment for the agency or political subdivision in that
377 amount. Except as provided otherwise in this subsection, the
378 failure of the Department of Financial Services or the
379 appropriate agency or political subdivision to make final
380 disposition of a claim within 6 months after it is filed shall
381 be deemed a final denial of the claim for purposes of this
382 section. For purposes of this subsection, in medical malpractice
383 actions and in wrongful death actions, the failure of the
384 Department of Financial Services or the appropriate agency or
385 political subdivision to make final disposition of a claim
386 within 90 days after it is filed shall be deemed a final denial
387 of the claim. The statute of limitations for medical malpractice
388 actions and wrongful death actions is tolled for the period of
389 time taken by the Department of Financial Services or the
390 appropriate agency or political subdivision to deny the claim.

391 The provisions of this subsection do not apply to such claims as
 392 may be asserted by counterclaim pursuant to s. 768.14.

393 (7) In actions brought pursuant to this section, process
 394 shall be served upon the head of the agency concerned and also,
 395 except as to a defendant political subdivision ~~municipality or~~
 396 ~~the Florida Space Authority~~, upon the Department of Financial
 397 Services, ~~and the department,~~ ~~or~~ the agency, or political
 398 subdivision concerned shall have 30 days within which to plead
 399 thereto.

400 (8) No attorney may charge, demand, receive, or collect,
 401 for services rendered, fees in excess of 25 percent of any
 402 judgment or settlement.

403 (9)(a) No officer, employee, or agent of the state or of
 404 any of its political subdivisions shall be held personally
 405 liable in tort or named as a party defendant in any action for
 406 any injury or damage suffered as a result of any act, event, or
 407 omission of action in the scope of her or his employment or
 408 function, unless such officer, employee, or agent acted in bad
 409 faith or with malicious purpose or in a manner exhibiting wanton
 410 and willful disregard of human rights, safety, or property.
 411 However, such officer, employee, or agent shall be considered an
 412 adverse witness in a tort action for any injury or damage
 413 suffered as a result of any act, event, or omission of action in
 414 the scope of her or his employment or function. The exclusive
 415 remedy for injury or damage suffered as a result of an act,
 416 event, or omission of an officer, employee, or agent of the
 417 state or any of its political subdivisions or constitutional
 418 officers shall be by action against the governmental entity, or

419 | the head of such entity in her or his official capacity, or the
 420 | constitutional officer of which the officer, employee, or agent
 421 | is an employee, unless such act or omission was committed in bad
 422 | faith or with malicious purpose or in a manner exhibiting wanton
 423 | and willful disregard of human rights, safety, or property. The
 424 | state or its political subdivisions shall not be liable in tort
 425 | for the acts or omissions of an officer, employee, or agent
 426 | committed while acting outside the course and scope of her or
 427 | his employment or committed in bad faith or with malicious
 428 | purpose or in a manner exhibiting wanton and willful disregard
 429 | of human rights, safety, or property.

430 | (b) As used in this subsection, the term:

431 | 1. "Employee" includes any volunteer firefighter.

432 | 2. "Officer, employee, or agent" includes, but is not
 433 | limited to, any health care provider when providing services
 434 | pursuant to s. 766.1115; any nonprofit independent college or
 435 | university located and chartered in this state which owns or
 436 | operates an accredited medical school, and its employees or
 437 | agents, when providing patient services pursuant to paragraph
 438 | (10)(e) ~~(10)(f)~~; and any public defender or her or his employee
 439 | or agent, including, among others, an assistant public defender
 440 | and an investigator.

441 | (c) For purposes of the waiver of sovereign immunity only,
 442 | a member of the Florida National Guard is not acting within the
 443 | scope of state employment when performing duty under the
 444 | provisions of Title 10 or Title 32 of the United States Code or
 445 | other applicable federal law; and neither the state nor any
 446 | individual may be named in any action under this chapter arising

447 | from the performance of such federal duty.

448 | (d) The employing agency of a law enforcement officer as
 449 | defined in s. 943.10 is not liable for injury, death, or
 450 | property damage effected or caused by a person fleeing from a
 451 | law enforcement officer in a motor vehicle if:

452 | 1. The pursuit is conducted in a manner that does not
 453 | involve conduct by the officer which is so reckless or wanting
 454 | in care as to constitute disregard of human life, human rights,
 455 | safety, or the property of another;

456 | 2. At the time the law enforcement officer initiates the
 457 | pursuit, the officer reasonably believes that the person fleeing
 458 | has committed a forcible felony as defined in s. 776.08; and

459 | 3. The pursuit is conducted by the officer pursuant to a
 460 | written policy governing high-speed pursuit adopted by the
 461 | employing agency. The policy must contain specific procedures
 462 | concerning the proper method to initiate and terminate high-
 463 | speed pursuit. The law enforcement officer must have received
 464 | instructional training from the employing agency on the written
 465 | policy governing high-speed pursuit.

466 | (10) (a) 1. Health care providers or vendors, or any of
 467 | their employees or agents, that have contractually agreed to act
 468 | as agents of the Department of Corrections to provide health
 469 | care services to inmates of the state correctional system shall
 470 | be considered agents of the State of Florida, Department of
 471 | Corrections, for the purposes of this section, while acting
 472 | within the scope of and pursuant to guidelines established in
 473 | said contract or by rule. The contracts shall provide for the
 474 | indemnification of the state by the agent for any liabilities

475 incurred up to the limits set out in this chapter.

476 2.~~(b)~~ This paragraph ~~subsection~~ shall not be construed as
 477 designating persons providing contracted health care services to
 478 inmates as employees or agents of the state for the purposes of
 479 chapter 440.

480 (b)~~(e)~~ For purposes of this section, regional poison
 481 control centers created in accordance with s. 395.1027 and
 482 coordinated and supervised under the Division of Children's
 483 Medical Services Prevention and Intervention of the Department
 484 of Health, or any of their employees or agents, shall be
 485 considered agents of the State of Florida, Department of Health.
 486 Any contracts with poison control centers must provide, to the
 487 extent permitted by law, for the indemnification of the state by
 488 the agency for any liabilities incurred up to the limits set out
 489 in this chapter.

490 (c)~~(d)~~ For the purposes of this section, operators,
 491 dispatchers, and providers of security for rail services and
 492 rail facility maintenance providers in the South Florida Rail
 493 Corridor, or any of their employees or agents, performing such
 494 services under contract with and on behalf of the South Florida
 495 Regional Transportation Authority or the Department of
 496 Transportation shall be considered agents of the state while
 497 acting within the scope of and pursuant to guidelines
 498 established in said contract or by rule.

499 (d)~~(e)~~ For purposes of this section, a professional firm
 500 that provides monitoring and inspection services of the work
 501 required for state roadway, bridge, or other transportation
 502 facility construction projects, or any of the firm's employees

503 performing such services, shall be considered agents of the
 504 Department of Transportation while acting within the scope of
 505 the firm's contract with the Department of Transportation to
 506 ensure that the project is constructed in conformity with the
 507 project's plans, specifications, and contract provisions. Any
 508 contract between the professional firm and the state, to the
 509 extent permitted by law, shall provide for the indemnification
 510 of the department for any liability, including reasonable
 511 attorney's fees, incurred up to the limits set out in this
 512 chapter to the extent caused by the negligence of the firm or
 513 its employees. This paragraph shall not be construed as
 514 designating persons who provide monitoring and inspection
 515 services as employees or agents of the state for purposes of
 516 chapter 440. This paragraph is not applicable to the
 517 professional firm or its employees if involved in an accident
 518 while operating a motor vehicle. This paragraph is not
 519 applicable to a firm engaged by the Department of Transportation
 520 for the design or construction of a state roadway, bridge, or
 521 other transportation facility construction project or to its
 522 employees, agents, or subcontractors.

523 (e)~~(f)~~ For purposes of this section, any nonprofit
 524 independent college or university located and chartered in this
 525 state which owns or operates an accredited medical school, or
 526 any of its employees or agents, and which has agreed in an
 527 affiliation agreement or other contract to provide, or permit
 528 its employees or agents to provide, patient services as agents
 529 of a teaching hospital, is considered an agent of the teaching
 530 hospital while acting within the scope of and pursuant to

531 guidelines established in the affiliation agreement or other
 532 contract. To the extent allowed by law, the contract must
 533 provide for the indemnification of the teaching hospital, up to
 534 the limits set out in this chapter, by the agent for any
 535 liability incurred which was caused by the negligence of the
 536 college or university or its employees or agents. The contract
 537 must also provide that those limited portions of the college,
 538 university, or medical school which are directly providing
 539 services pursuant to the contract and which are considered an
 540 agent of the teaching hospital for purposes of this section are
 541 deemed to be acting on behalf of a public agency as defined in
 542 s. 119.011(2).

543 1. For purposes of this paragraph, the term:

544 a. "Employee or agent" means an officer, employee, agent,
 545 or servant of a nonprofit independent college or university
 546 located and chartered in this state which owns or operates an
 547 accredited medical school, including, but not limited to, the
 548 faculty of the medical school, any health care practitioner or
 549 licensee as defined in s. 456.001 for which the college or
 550 university is vicariously liable, and the staff or
 551 administrators of the medical school.

552 b. "Patient services" mean:

553 (I) Comprehensive health care services as defined in s.
 554 641.19, including any related administrative service, provided
 555 to patients in a teaching hospital;

556 (II) Training and supervision of interns, residents, and
 557 fellows providing patient services in a teaching hospital; or

558 (III) Training and supervision of medical students in a

559 teaching hospital.

560 c. "Teaching hospital" means a teaching hospital as
 561 defined in s. 408.07 which is owned or operated by the state, a
 562 county or municipality, a public health trust, a special taxing
 563 district, a governmental entity having health care
 564 responsibilities, or a not-for-profit entity that operates such
 565 facility as an agent of the state, or a political subdivision of
 566 the state, under a lease or other contract.

567 2. The teaching hospital or the medical school, or its
 568 employees or agents, must provide notice to each patient, or the
 569 patient's legal representative, that the college or university
 570 that owns or operates the medical school and the employees or
 571 agents of that college or university are acting as agents of the
 572 teaching hospital and that the exclusive remedy for injury or
 573 damage suffered as the result of any act or omission of the
 574 teaching hospital, the college or university that owns or
 575 operates the medical school, or the employees or agents of the
 576 college or university, while acting within the scope of duties
 577 pursuant to the affiliation agreement or other contract with a
 578 teaching hospital, is by commencement of an action pursuant to
 579 the provisions of this section. This notice requirement may be
 580 met by posting the notice in a place conspicuous to all persons.

581 3. This paragraph does not designate any employee
 582 providing contracted patient services in a teaching hospital as
 583 an employee or agent of the state for purposes of chapter 440.

584 (11) (a) Providers or vendors, or any of their employees or
 585 agents, that have contractually agreed to act on behalf of the
 586 state as agents of the Department of Juvenile Justice to provide

587 services to children in need of services, families in need of
 588 services, or juvenile offenders are, solely with respect to such
 589 services, agents of the state for purposes of this section while
 590 acting within the scope of and pursuant to guidelines
 591 established in the contract or by rule. A contract must provide
 592 for the indemnification of the state by the agent for any
 593 liabilities incurred up to the limits set out in this section
 594 ~~chapter~~.

595 (b) This subsection does not designate a person who
 596 provides contracted services to juvenile offenders as an
 597 employee or agent of the state for purposes of chapter 440.

598 (12) (a) A health care practitioner, as defined in s.
 599 456.001(4), who has contractually agreed to act as an agent of a
 600 state university board of trustees to provide medical services
 601 to a student athlete for participation in or as a result of
 602 intercollegiate athletics, to include team practices, training,
 603 and competitions, shall be considered an agent of the respective
 604 state university board of trustees, for the purposes of this
 605 section, while acting within the scope of and pursuant to
 606 guidelines established in that contract. The contracts shall
 607 provide for the indemnification of the state by the agent for
 608 any liabilities incurred up to the limits set out in this
 609 chapter.

610 (b) This subsection shall not be construed as designating
 611 persons providing contracted health care services to athletes as
 612 employees or agents of a state university board of trustees for
 613 the purposes of chapter 440.

614 (13) Laws allowing the state or its agencies or political

615 subdivisions to buy insurance are still in force and effect and
 616 are not restricted in any way by the terms of this section ~~act~~.

617 (14) Every claim against the state or one of its agencies
 618 or political subdivisions for damages for a negligent or
 619 wrongful act or omission pursuant to this section shall be
 620 forever barred unless the civil action is commenced by filing a
 621 complaint in the court of appropriate jurisdiction within 4
 622 years after such claim accrues; except that an action for
 623 contribution must be commenced within the limitations provided
 624 in s. 768.31(4), and an action for damages arising from medical
 625 malpractice or wrongful death must be commenced within the
 626 limitations for such actions in s. 95.11(4).

627 (15) No action may be brought against the state or any of
 628 its agencies or political subdivisions by anyone who unlawfully
 629 participates in a riot, unlawful assembly, public demonstration,
 630 mob violence, or civil disobedience if the claim arises out of
 631 such riot, unlawful assembly, public demonstration, mob
 632 violence, or civil disobedience. Nothing in this section ~~act~~
 633 shall abridge traditional immunities pertaining to statements
 634 made in court.

635 (16) (a) The state and its agencies and political
 636 subdivisions are authorized to be self-insured, to enter into
 637 risk management programs, or to purchase liability insurance for
 638 whatever coverage they may choose, or to have any combination
 639 thereof, in anticipation of any claim, judgment, and claim
 640 ~~claims~~ bill which they may be liable to pay pursuant to this
 641 section. Agencies or political subdivisions, and sheriffs, that
 642 are subject to homogeneous risks may purchase insurance jointly

643 or may join together as self-insurers to provide other means of
 644 protection against tort claims, any charter provisions or laws
 645 to the contrary notwithstanding.

646 (b) Claims files maintained by any risk management program
 647 administered by the state, its agencies, and its political
 648 subdivisions are confidential and exempt from the provisions of
 649 s. 119.07(1) and s. 24(a), Art. I of the State Constitution
 650 until termination of all litigation and settlement of all claims
 651 arising out of the same incident, although portions of the
 652 claims files may remain exempt, as otherwise provided by law.
 653 Claims files records may be released to other governmental
 654 agencies upon written request and demonstration of need; such
 655 records held by the receiving agency remain confidential and
 656 exempt as provided for in this paragraph.

657 (c) Portions of meetings and proceedings conducted
 658 pursuant to any risk management program administered by the
 659 state, its agencies, or its political subdivisions, which relate
 660 solely to the evaluation of claims filed with the risk
 661 management program or which relate solely to offers of
 662 compromise of claims filed with the risk management program are
 663 exempt from the provisions of s. 286.011 and s. 24(b), Art. I of
 664 the State Constitution. Until termination of all litigation and
 665 settlement of all claims arising out of the same incident,
 666 persons privy to discussions pertinent to the evaluation of a
 667 filed claim shall not be subject to subpoena in any
 668 administrative or civil proceeding with regard to the content of
 669 those discussions.

670 (d) Minutes of the meetings and proceedings of any risk

671 management program administered by the state, its agencies, or
 672 its political subdivisions, which relate solely to the
 673 evaluation of claims filed with the risk management program or
 674 which relate solely to offers of compromise of claims filed with
 675 the risk management program are exempt from the provisions of s.
 676 119.07(1) and s. 24(a), Art. I of the State Constitution until
 677 termination of all litigation and settlement of all claims
 678 arising out of the same incident.

679 (17) This section, as amended by chapter 81-317, Laws of
 680 Florida, shall apply only to causes of actions which accrue on
 681 or after October 1, 1981.

682 (18) No provision of this section, or of any other section
 683 of the Florida Statutes, whether read separately or in
 684 conjunction with any other provision, shall be construed to
 685 waive the immunity of the state or any of its agencies from suit
 686 in federal court, as such immunity is guaranteed by the Eleventh
 687 Amendment to the Constitution of the United States, unless such
 688 waiver is explicitly and definitely stated to be a waiver of the
 689 immunity of the state and its agencies from suit in federal
 690 court. This subsection shall not be construed to mean that the
 691 state has at any time previously waived, by implication, its
 692 immunity, or that of any of its agencies, from suit in federal
 693 court through any statute in existence prior to June 24, 1984.

694 (19) Neither the state nor any agency or political
 695 subdivision of the state waives any defense of sovereign
 696 immunity, or increases the limits of its liability, upon
 697 entering into a contractual relationship with another agency or
 698 political subdivision of the state. Such a contract must not

699 contain any provision that requires one party to indemnify or
 700 insure the other party for the other party's negligence or to
 701 assume any liability for the other party's negligence. This does
 702 not preclude a party from requiring a nongovernmental entity to
 703 provide such indemnification or insurance. The restrictions of
 704 this subsection do not prevent a regional water supply authority
 705 from indemnifying and assuming the liabilities of its member
 706 governments for obligations arising from past acts or omissions
 707 at or with property acquired from a member government by the
 708 authority and arising from the acts or omissions of the
 709 authority in performing activities contemplated by an interlocal
 710 agreement. Such indemnification may not be considered to
 711 increase or otherwise waive the limits of liability to third-
 712 party claimants established by this section.

713 (20) Every political subdivision ~~municipality~~, and any
 714 agency thereof, is authorized to undertake to indemnify those
 715 employees that are exposed to personal liability pursuant to the
 716 Clean Air Act Amendments of 1990, 42 U.S.C.A. ss. 7401 et seq.,
 717 and all rules and regulations adopted to implement that act, for
 718 acts performed within the course and scope of their employment
 719 with the political subdivision ~~municipality~~ or its agency,
 720 including but not limited to indemnification pertaining to the
 721 holding, transfer, or disposition of allowances allocated to the
 722 political subdivision's ~~municipality's~~ or its agency's electric
 723 generating units, and the monitoring, submission, certification,
 724 and compliance with permits, permit applications, records,
 725 compliance plans, and reports for those units, when such acts
 726 are performed within the course and scope of their employment

727 with the political subdivision ~~municipality~~ or its agency. The
 728 authority to indemnify under this section covers every act by an
 729 employee when such act is performed within the course and scope
 730 of her or his employment with the political subdivision
 731 ~~municipality~~ or its agency, but does not cover any act of
 732 willful misconduct or any intentional or knowing violation of
 733 any law by the employee. The authority to indemnify under this
 734 section includes, but is not limited to, the authority to pay
 735 any fine and provide legal representation in any action.

736 Section 7. If any provision of this act or the application
 737 thereof to any person or circumstance is held invalid, the
 738 invalidity does not affect other provisions or applications of
 739 the act which can be given effect without the invalid provision
 740 or application, and to this end the provisions of this act are
 741 declared severable.

742 Section 8. The amendments made to s. 768.28, Florida
 743 Statutes, by this act apply to causes of action filed after the
 744 effective date of this act.

745 Section 9. This act shall take effect October 1, 2013.